

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:  
AMENDED  
UNITED STATES OF AMERICA, : ORDER  
- v. - : S1 02 Cr. 1236 (LBS)  
:  
JOHN J. RIGAS, et al., :  
:  
Defendants. :  
- - - - -x

On or about April 26, 2005, the United States Attorney for the Southern District of New York moved this Court, by Affirmation, for the adoption of certain victim procedures consistent with Title 18, United States Code, Section 3771(d)(2), which concerns cases with large numbers of potential victims. The Government's Affirmation and Proposed Order are attached as Exhibit 1, hereto.

In addition, the Government moved this Court for approval of the settlement of criminal forfeiture actions brought against the defendants in the above-captioned case. The Government's letter explaining the proposed settlement and seeking approval is attached as Exhibit 2, hereto.

The Court finds that, given the currently scheduled June 1, 2005 sentencing date, there is good cause to move expeditiously on these applications.

Accordingly, it is hereby ORDERED

That any persons or entities wishing to be heard by the Court concerning the procedures proposed in the Government's Affirmation and Proposed Order shall make a written submission to the Court\* on or before May 10, 2005;

That any such written submissions clearly state whether such persons or entities seek a hearing before the Court and what matters they intend to raise at such a hearing;

That any such hearing will be held on or before May 18, 2005, at a time to be determined by the Court;

That the Government serve this Order and the aforementioned Affirmation and Order on any and all victims known to the Government, and that this Order be served by the Government on all parties in the bankruptcy case concerning Adelphia Communication Corp., No. 02-41729 (REG);

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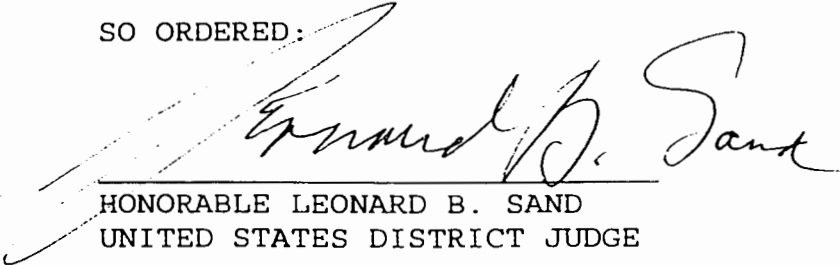
\*All such correspondence should be addressed to:

RIGAS SETTLEMENT  
ROOM 1650  
UNITED STATES COURTHOUSE  
500 PEARL STREET  
NEW YORK, NEW YORK 10007

That the Government post this Order and the  
aforementioned Affirmation and Order on its internet site  
containing victim information, found at  
<http://www.usdoj.gov/usao/nys/victimwitness.html>.

Dated: New York, New York  
April 28, 2005

SO ORDERED:



HONORABLE LEONARD B. SAND  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA :

-v- : AFFIRMATION

JOHN J. RIGAS, et al. : S1 02 Cr. 1236 (LBS)

Defendant. :

- - - - - X

STATE OF NEW YORK )  
COUNTY OF NEW YORK : ss.:  
SOUTHERN DISTRICT OF NEW YORK )

Christopher J. Clark, pursuant to Title 28, United States Code, Section 1746, hereby declares under penalty of perjury:

1. I am an Assistant United States Attorney in the Office of David N. Kelley, United States Attorney for the Southern District of New York. I submit this affirmation in support of an order designating this case as a case with "multiple crime victims" pursuant to Title 18, United States Code, Section 3771 (d)(2), and approving certain victim notification procedures as "reasonable" under that Section as well.

2. On October 30, 2004, the "Justice for All Act of 2004" ("the Act") was enacted, which expanded the rights of victims and established certain requirements concerning victim

notification by the Government.<sup>1</sup> See 18 U.S.C. § 3771(a). The Act provides as follows:

(a) Rights of crime victims.--A crime victim has the following rights:

(1) The right to be reasonably protected from the accused.

(2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.

(3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.

(4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.

(5) The reasonable right to confer with the attorney for the Government in the case.

(6) The right to full and timely restitution as provided in law.

(7) The right to proceedings free from unreasonable delay.

(8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

18 U.S.C. § 3771(a).

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<sup>1</sup> The Act defines a "crime victim" as "a person directly and proximately harmed as a result of the commission of a federal offense . . . ." 18 U.S.C. § 3771(e).

3. The Act recognizes that in cases involving large numbers of crime victims, it may be impracticable to accord all of the crime victims the rights identified in Section 3771(a). See 18 U.S.C. § 3771(d)(2). The Act provides that in such cases, "the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong proceedings." Id.

4. This case involves a securities fraud committed by the defendants involving Adelphia Communications Corp., a public corporation whose shareholders numbered in the tens of thousands. In addition to its publicly traded stock, Adelphia also issued billions of dollars in publicly traded bonds. Every owner of one of these securities during the time period from 1986 to 2002 is a potential crime victim in this case. Thus, there are literally tens of thousands of victims of this crime. In fact, an analysis of the trading data for Adelphia's common stock for just one day in 2002 ran many hundreds of pages. Identifying and notifying each of the victims of this crime would take many months, and costs millions of dollars. In preparation for the trial of this matter, the Government attempted, with the aid of the Postal Inspection Service and the United States Securities and Exchange Commission to identify as many victims as possible to ascertain whether some victims might be potential trial witnesses. These

diligent efforts did not produce anything approaching a definitive catalog of victims.

5. In the attached proposed Order, the Government has proposed an alternative plan for the notification of victims, which involves the following actions by the Government and the Court:

(1) The Government will cause a notice ("the Notice") of this case to be: (a) posted on the Internet at <http://www.usdoj.gov/usao/nys/victimwitness.html>; and (b) sent to any victims whose identity and address the Government has in its possession at the time the notice is sent.

(2) The Notice will contain the following information:

a. The caption, case number, assigned judge, and names of corporate entities (if public) involved in the case for which notification is made;

b. A substantially verbatim listing of the rights provided for in Title 18, United States Code, Section 3771(a);

c. A listing of public proceedings scheduled in the case for which notification is made; and

d. The name and contact information for a United States Attorney's Office official with responsibility for addressing victims' rights; and

e. Information on the Adelphia Victim Compensation Fund.

(3) Subsequent to the posting and distribution of the Notice, the Government will update the internet posting relating to this case to reflect scheduled court and public proceedings, within a reasonable period of time of such scheduling.

(4) The Notice will specify that the Court, in order to conduct orderly proceedings and to maintain a reasonable schedule, requires advance notice from victims who wish to be heard during court proceedings such as plea proceedings and sentencings. Based on the number of victims who provide such notice, the Court will rule on the manner in which victims will be heard at such proceedings.

6. The Government respectfully submits that the proposed procedures represent a "reasonable procedure to give effect to" the Act, and respectfully requests that the Court endorse the procedures as described in the proposed Order.

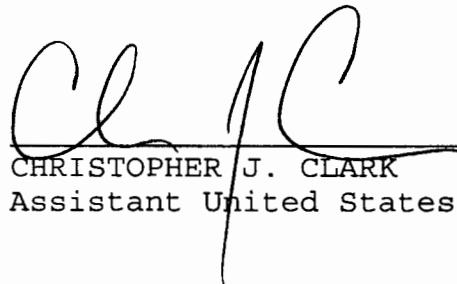
7. As discussed in Paragraph 4, above, the Government is aware that there are tens of thousands of potential victims of the fraud in this case, but has not been able to identify them in any comprehensive manner, despite its best efforts. A comprehensive effort to do so could take many, many months, and prolong the sentencing process in an unreasonable way. For both



of these reasons, pursuant to Title 18, United States Code, Section 3663A (c) (3) (A) & (B), the Court should therefore decline to impose restitution at sentencing. The interests of justice in compensating victims of the frauds in this case will be better served through the criminal forfeiture process in this matter. Pursuant to the Government's forfeiture settlement with the defendants and members of their family, the Government will create a fund for the compensation of victims. The administrator of the fund will have the time and resources to conduct a claims process that seeks to identify and compensate victims of the fraud in this case.

I declare under penalties of perjury that the foregoing is true and correct, pursuant to 28 U.S.C. § 1746.

Dated: New York, New York  
April 24, 2005



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CHRISTOPHER J. CLARK  
Assistant United States Attorney



U.S. Department of Justice

United States Attorney  
Southern District of New York

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The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

April 25, 2005

BY HAND

Hon. Leonard B. Sand  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: United States v. John J. Rigas, et al.  
SI 02 Cr. 1236 (LBS)

Dear Judge Sand:

Enclosed please find documents relating to agreements between the Government, the family of John J. Rigas (the "Rigas Family"), and Adelphia Communications Corporation ("Adelphia"), concerning the forfeiture of various assets of the Rigas Family in connection with the above-captioned criminal case.

As detailed more fully in the enclosed documents, the Government and the Rigas Family have agreed to a settlement of the Government's forfeiture claim against John J. Rigas and Timothy J. Rigas pending before the Court. The Rigas Family has agreed to forfeit to the Government: (1) approximately 215,000 of their 220,000 privately owned cable subscribers; (2) all of the Adelphia securities owned by the Rigas Family and its controlled entities; and (3) substantial real estate. The Government has agreed with the Rigas Family that it will not seek further forfeiture from the Rigas Family in connection with the events detailed in the above-captioned Indictment. In addition, the Government believes that, in light of this settlement, and taking account of the provisions of Title 18, United States Code, Section 3663A (c)(3), an order of restitution need not be imposed at sentencing in this case. The Government is also not seeking a further fine in this matter. The parties seek this Court's approval of this settlement, and have enclosed proposed orders of forfeiture and settlement for the Court's consideration.

The Government has agreed with Adelphia that it will return certain property forfeited by the Rigas Family to Adelphia, including: (1) all of the forfeited cable subscribers;

(2) all of the forfeited Adelphia securities; and (3) certain portions of the forfeited real estate. In addition, the Government has entered into a non-prosecution agreement with Adelphia which provides that if Adelphia forbears from criminal activity and continues to co-operate with the Government, it will not be charged for the criminal actions of its executives relating the events detailed in the above captioned Indictment. As part of its non-prosecution agreement, Adelphia has agreed to pay the Government \$715 million, to be deposited into an Adelphia victim compensation fund, to be distributed to victims by the Government. This agreement is subject to the approval of Judge Gerber of United States Bankruptcy Court for the Southern District of New York, and had been provided to him today.

In addition, the United States Securities and Exchange Commission has also settled its civil actions against Adelphia and certain members of the Rigas Family, and will be submitting a proposed settlement for the approval of Judge Castel of this Court in the immediate future.

The enclosed documents, detailing the above-described agreements, include:

- (1) An Agreement between the Government and the Rigas Family;<sup>1</sup>
- (2) Seven Exhibits to the Government/Rigas Family Agreement:
  - (a) List of Individuals and Entities Included in "Rigas Family";
  - (b) List of Managed Cable Entities;
  - (c) List of Forfeited Entities;
  - (d) Form of Consent Order of Forfeiture;
  - (e) List of Forfeited Real Estate;
  - (f) List of Forfeited Securities; and

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<sup>1</sup>The Copy of the Agreement being provided to the Court has been executed only by the Government and the Rigas Family entities. The Rigas Family signatories are in a funeral at the time of this writing, and are expected to execute the Agreement by noon today. We will provide the Court with a fully executed copy of the Agreement this afternoon.

Hon. Leonard B. Sand  
April 25, 2005  
Page 3


- (i) Form of Order Approving Settlement;
- (3) A Non-Prosecution Agreement between the Government and Adelphia (incorporating certain of the above-listed exhibits, and Exhibit S, List of Covered Subsidiaries); and
- (4) An Affirmation and Proposed Order relating to the Justice for All Act of 2004, Title 18, United States Code, Section 3771.<sup>2</sup>

The parties are ready to appear, at the Court's convenience, to provide any further information that the Court may require.

Respectfully Submitted,

DAVID N. KELLEY  
United States Attorney

By:

  
RICHARD D. OWENS  
CHRISTOPHER J. CLARK  
Assistant United States Attorneys  
Tel. (212) 637-2415/2205

enc

cc: Counsel on Attached  
Distribution List

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<sup>2</sup>As explained in the enclosed Affirmation, Congress recently enacted the Justice For All Act to encode certain protections for crime victims. The Affirmation and Proposed Order deal with that Act's provisions relating to complex cases with multiple victims and the procedures to be followed in such cases.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Dated: New York, New York  
April \_\_, 2005

SO ORDERED:

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HONORABLE LEONARD B. SAND  
UNITED STATES DISTRICT JUDGE